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20720-95585

OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Eugenio A. Cefali  
Application No. : 08/962,421 Confirmation No.:  
Filed : October 31, 1997  
For : INTERMEDIATE RELEASE NICOTINIC ACID  
COMPOSITIONS FOR TREATING HYPERLIPIDEMIA  
WHICH EXHIBIT AN IN VIVO STAIR-STEPPED  
ABSORPTION CURVE  
Group : 1615  
Examiner : James M. Spear

Hon. Commissioner for Patents  
P.O. Box 2327  
Arlington, Virginia 22202

PETITION FOR WITHDRAWAL FROM ISSUE  
PURSUANT TO 37 C.F.R. § 1.137(c)(2)

Sir:

Pursuant to 37 C.F.R. § 1.313(c)(2), applicant hereby petitions to withdraw the above-identified patent application from issue. Applicant requests that the application be withdrawn from issue in order to permit: (1) consideration of a Request for Continued Examination ("RCE") of this application under 37 C.F.R. § 1.114 (filed concurrently herewith) and (2) consideration in the RCE of the Request to Correct Inventorship of this application under 37 C.F.R. § 1.48 (filed concurrently herewith).

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This Rule 313(c)(2) Petition is being filed in the above-identified application concurrently with a Petition To Revive Unintentionally Abandoned Application Pursuant To 37 C.F.R. § 1.137(b) for failure to reply to the September 25, 2000 Notice of Allowance and accompanying Notice of Allowability by filing corrected formal drawings with the then-submitted issue fee. The Rule 137(b) Petition is accompanied by that reply, which includes the issue fee (resubmitted) and corrected formal drawings. As a result of that submission, applicant hereby requests withdrawal of the above-identified application from issue under Rule 313(c)(2), once the application is revived.

Pursuant to 37 C.F.R. § 1.313(c)(2), this Petition is filed concurrently with:

- 1) A Request for Continued Examination ("RCE") of this application under 37 C.F.R. § 1.114.

In the accompanying Transmittal Letter (filed in duplicate herewith), the Director is authorized to charge the amount of \$750.00, in payment of the filing fee set forth in 37 C.F.R. § 1.17(e) for the RCE; \$130.00, in payment of the fee set forth in 37 C.F.R. § 1.17(h) for consideration of this Petition; and any additional fee required in connection with this Petition, or any of the papers filed herewith, or to

credit any overpayment of same, to Deposit Account No. 50-2543 (Kos).

Accordingly, applicant requests that following grant of applicant's concurrently-filed Rule 137(b) Petition, this Rule 313(c)(2) Petition be granted and the above-identified application be withdrawn from issue in favor of the Request for Continued Examination (filed concurrently herewith), in order to reopen prosecution and allow consideration of the Request to Correct Inventorship (filed concurrently herewith).

Respectfully submitted,

Date: 1/15/03

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Eugenio A. Cefali  
Application No. : 08/962,421 Confirmation No.:  
Filed : October 31, 1997  
For : INTERMEDIATE RELEASE NICOTINIC ACID  
COMPOSITIONS FOR TREATING  
HYPERLIPIDEMIA WHICH EXHIBIT AN IN  
VIVO STAIR-STEPPED ABSORPTION CURVE  
Group Art Unit : 1615  
Examiner : James M. Spear

Hon. Commissioner for Patents  
P.O. Box 2327  
Arlington, Virginia 22202

REQUEST TO PERFECT CLAIM TO  
PRIORITY PURSUANT TO 35 U.S.C. § 120

Sir:

This request is being filed concurrently with a Request to Correct Inventorship of the above-identified application pursuant to 37 C.F.R. § 1.48 by adding the name of David J. Bova as a co-inventor. This application was filed in the name of Eugenio A. Cefali, as a continuation-in-part application claiming priority under 35 U.S.C. § 120 from:

United States patent application Serial No.  
08/814,974, filed March 6, 1997 in the name of David J. Bova  
(now United States patent 6,129,930), which is a continuation-

in-part application claiming priority under 35 U.S.C. § 120  
from:

United States patent application Serial No.  
08/368,378, filed January 14, 1995 in the name of David J. Bova  
(now United States patent 6,080,428), which is a continuation-  
in-part application claiming priority under 35 U.S.C. § 120  
from:

United States patent application Serial No.  
08/124,392, filed September 20, 1993 in the name of David J.  
Bova.

Due to an error in designating inventorship in the  
pending application, David J. Bova was not listed as a co-  
inventor. As a result, at the time of stating the priority  
claim in this application, there was no overlapping  
inventorship with the '974, '378 or '392 applications.

Upon grant of the Request to Correct Inventorship of  
the pending application, the inventorship in this application  
will have an inventor in common with the '974, '378 and '392  
applications. As indicated in the Declaration and Power of  
Attorney filed concurrently herewith in the present  
application, the present application claims priority under 35  
U.S.C. § 120 from the '974, '378 and '392 applications.

In the accompanying Transmittal Letter (filed in duplicate herewith), the Director is authorized to charge any fee required in connection with this Request, or to credit any overpayment, to Deposit Account No. 50-2543 (Kos).

Respectfully submitted,

Date: 1/15/03

K. Messick

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